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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/735,712	12/12/2000	D. Wade Walke	LEX-0109-USA	5587
24231	7590	04/08/2004	EXAMINER	
LEXICON GENETICS INCORPORATED 8800 TECHNOLOGY FOREST PLACE THE WOODLANDS, TX 77381-1160			LI, RUIXIANG	
			ART UNIT	PAPER NUMBER
			1646	

DATE MAILED: 04/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/735,712

Applicant(s)

WALKE ET AL.

Examiner

Ruixiang Li

Art Unit

1646

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED on 3/8/2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 08 March 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☒ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-9.

Claim(s) withdrawn from consideration: _____.


8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: the rejections of claims 1-8 under 35 U.S.C. 101 and 112, 1st paragraph remain for the reasons set forth in the record. The newly added claim 9 is also rejected on the same basis.

Applicants argue that the sequences of the present invention encodes a novel human antigen-like membrane protein that plays a role in connective tissue disorders and is involved in the regulation of the levels of Natural Killer cells.

Applicants' argument has been fully considered, but is not deemed to be persuasive because the protein of the present invention does not appear to have a specific, substantial utility or a well-established utility because its biological function or physiological significance is not clear. In addition, the two references submitted by applicants do not provide a well-established utility for the claimed invention. Furthermore, neither the specification nor the art discloses or teaches a specific biological role in connective tissue disorders. Finally, the analysis of knockout mice showing an increase of NK cells in the blood of animals was not present in a proper form so that the Examiner could evaluate the validity of the data. The examiner has not been able to find the disclosure that is related to regulation of NK cells by the protein of the present invention in the instant application as filed.

The Examiner requests evidence indicating that the protein of the present invention, an asserted human CD20 antigen-like membrane protein, has a specific, substantial utility or a well-established utility.


GARY KUNZ
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